IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7809 of 2005

Between:

Ramuloo, E-281073,
R/o. Narayanapet, Mahaboobnagar Dist.

..... PETITIONER

AND

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1 The APSRTC, rep. by its Regional Manager, Mahaboobnagar

Region at Mahaboobnagar.
2 The APSRTC, rep. by its Depot Manger, Narayanapet,

Mahaboobnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of 2 years with cumulative effect without holding any departmental enquiry vide Proc.No.01/2(5)/98-Narayanapet, dt.10-06-1998, as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the petitioner by adding the differed increment w.e.f 10-06-1998 and to pay the arrears forthwith and pass such other order or orders.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following :

ORDER:

The petitioner was appointed as driver in the respondent-Corporation in the year 1995. He was issued a charge sheet on 19.5.1998 on the allegation of rash and negligent driving. After receiving the explanation of the petitioner, the respondents passed final orders on 10-6-1998 imposing the penalty of postponing of annual

increment for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is postponement of annual increment for a period of two years with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Against the order passed by the respondents, the petitioner filed an appeal before the conciliation authority, but the same was dismissed by the appellate authority. Therefore, the order is illegal and it is liable to be set aside.

The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 6 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside in view of the judgment of the Supreme Court in *Kulwant Singh Gill's case*, supra, on account of long lapse of time in filing the writ petition, I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as postponement of annual increment for two years without cumulative effect. But, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of postponement of one annual increment for two years without cumulative effect.

The Writ Petition is accordingly disposed of with the above observations. No costs.

K.C. Bhanu, J.

7th April 2005

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To

1 The Regional Manager, APSRTC, Mahaboobnagar Region at

Mahaboobnagar.
2 The Depot Manager, APSRTC, Narayanapet, Mahaboobnagar

District.

3 2 CD copies.